

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JABROWN PARKS,

Petitioner,

v.

CASE NO. 2:07-cv-909
CRIMINAL NO. 2:03-cr-213(2)
JUDGE HOLSCHUH
MAGISTRATE JUDGE KEMP

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On February 2, 2009, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255 be dismissed. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. For the reasons that follow, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

Petitioner objects to all of the Magistrate Judge's recommendations. He again raises all of the same arguments he previously presented. Specifically, petitioner again asserts that, but for his attorney's improper failure to file a motion for production of sentencing guideline information or a motion for preservation of evidence, petitioner would not have entered his guilty plea, but would have proceeded to trial. Petitioner argues at length that evidence would have shown that police violated his rights under *Miranda v. Arizona*, 383 U.S. 903 (1966). Petitioner's arguments are not persuasive.

Pursuant to 28 U.S.C. §636(b), this Court has conducted a *de novo* review of the

Magistrate Judge's Report and Recommendation. The record reflects that the evidence against petitioner was substantial and petitioner understood the sentencing ramifications of his guilty plea. His guilty plea was knowing, intelligent and voluntary. The record is without support for his allegation either that counsel performed in a constitutionally ineffective manner, or that but for such inadequate performance, he would have proceeded to trial. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

For these reasons, and for the reasons detailed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

2-25-09



JOHN D. HOLSCUH
United States District Judge